



MAYOR AND COUNCIL AGENDA

NO. 9

DEPT.: City Manager's Office /

DATE: July 28, 2004

ACTION: Approval of Agreement By and Between Rockville Economic Development, Inc. and the Mayor and Council of the City of Rockville

ACTION STATUS:

FOR THE MEETING OF: 8/2/04

INTRODUCED

PUB. HEARING

INSTRUCTIONS

APPROVED

EFFECTIVE

ROCKVILLE CITY CODE,

CHAPTER

SECTION

☐ CONSENT AGENDA

RECOMMENDATION: Staff recommends that the Mayor and Council authorize the City Manager to enter into a three-year agreement with Rockville Economic Development, Inc. for economic development and marketing services.

IMPACT: ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other:

The FY 2005 adopted budget includes \$386,112 for Rockville Economic Development, Inc. (REDI). The Agreement indicates that the City will pay REDI \$403,527 in FY 2006 and \$422,884 in FY 2007 for economic development and marketing services.

BACKGROUND: Prior to 1997, the City provided economic development and marketing services through the Economic Development Division in the Department of Community Development. In 1997, the Mayor and Council created the Greater Rockville Partnership (GRP), a corporation separate and apart from the City, to provide economic development and marketing services. In early 2004, the Greater Rockville Partnership was renamed Rockville Economic Development, Inc. (REDI).

A three-year Agreement between the City and REDI concluded in July 2004. A new three-year agreement is attached for Mayor and Council approval. The following list highlights key items in the Agreement:

- ✓ REDI's strategic goals remain the same as in the previous Agreement, focusing on establishing the City as a leading center for economic development, promoting resident and new businesses, fostering communication with the business community, and creating and retaining jobs. REDI is also tasked with providing economic development, marketing, and organizational assistance for the Town Center redevelopment.

- ✓ The City will pay REDI \$386,112 in FY 05, \$403,527 in FY 06, and \$422,884 in FY 07. The approximately 4% increase in the second and third years of the Agreement represent rising costs of rent, salaries and benefits, and payroll taxes. The rest of REDI's expenses stay the same during the three-year period.
- ✓ The Agreement requires that REDI submit a proposed budget to the City Manager and meet with the City manager annually to discuss the proposed budget and any requests for additional funds.
- ✓ REDI will submit to the City annually a Strategic Initiatives and Work Plan that will include measures to assess REDI's success in meeting the goals and objectives in the Plan. REDI will also submit an annual report on the organization's operations and activities, and summarize the report in a presentation to the Mayor and Council annually.

PREPARED BY:

Jennifer L. White, Assistant to City Manager

APPROVE: *Cathy J. Jones*

7/27/04
Date

LIST OF ATTACHMENTS:

Agreement By and Between Rockville Economic Development, Inc. and the Mayor and Council of the City of Rockville, Maryland

AGREEMENT BY AND BETWEEN
ROCKVILLE ECONOMIC DEVELOPMENT, INC.

AND

THE MAYOR AND COUNCIL OF THE
CITY OF ROCKVILLE, MARYLAND

AUGUST 2, 2004

AGREEMENT

This AGREEMENT, made this day of , 2004, by and between the MAYOR AND COUNCIL OF THE CITY OF ROCKVILLE, MARYLAND, hereinafter referred to as the "City," and ROCKVILLE ECONOMIC DEVELOPMENT, INC., a Maryland non-stock corporation, hereinafter referred to as "REDI."

WHEREAS, REDI (formerly the Greater Rockville Partnership or GRP) has been organized by the City for the purposes set forth in REDI's Articles of Incorporation; and

WHEREAS, the City is the sole member of REDI; and

WHEREAS, the City has determined to fund the operations of REDI, upon the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and agreements contained herein, and intending to be legally bound hereby, the parties agree as follows:

ARTICLE I TERM, FUNDS, AND PAYMENTS

1.1 Term

The term of the Agreement will commence on the date hereof, and will expire three years from the date hereof.

1.2 Funds and Payment

Subject to the terms and conditions of this Agreement and funding by the Mayor and Council, the City will pay the sum of \$386,112 to REDI for work to be completed pursuant to this Agreement during FY 2005, \$403,527 for work to be completed in FY 2006, and \$422,884 for work to be completed in FY 2007.

REDI will submit a request for payment and the City will pay REDI in two equal semi-annual installments in July and January of each fiscal year. The administrator of the Agreement will forward REDI's requests approved for payment to the Department of Finance. The Department of Finance will pay REDI by City check within 10 business days of receipt of each request for payment.

By January 15 of each fiscal year, REDI will submit a spending plan identifying how REDI plans to spend the City funds designated in this Agreement during the fiscal year. REDI's spending plan for FY 2005 is attached at Attachment A.

REDI may also submit a request to the City Manager by January 15 of each fiscal year for funds in addition to the dollars designated in this section of the Agreement, to fund costs of new initiatives or existing initiatives. REDI will meet with the City Manager in January of each fiscal year to discuss REDI's spending plan for the upcoming fiscal year and any additional funds which REDI requests that the City Manager include in the Proposed Budget. The City Manager will determine what, if any, funds in addition to those designated in this section of the Agreement to include in the City Manager's Proposed Budget for adoption by the Mayor and Council.

ARTICLE II
REPRESENTATIONS AND WARRANTIES OF
ROCKVILLE ECONOMIC DEVELOPMENT, INC.

REDI hereby represents and warrants to the City as follows, it being understood that such representations and warranties are being relied upon by the City as a material inducement to enter into and perform this Agreement. REDI is a non-stock corporation organized, validly existing and in good standing under the corporate of the State of Maryland. REDI has no authorized capital stock. The sole member of REDI is the City. REDI has full corporate power and authority to execute and deliver this Agreement and to perform its obligations contemplated hereby. The execution and delivery of this Agreement has been duly and validly approved by the Board of Directors of REDI and no other corporate proceedings on the part of REDI are necessary to approve this Agreement. This Agreement has been duly and validly executed and delivered by REDI and (assuming due authorization, execution and delivery by the City) will constitute valid and binding obligations of REDI, enforceable against REDI in accordance with its terms, except as enforcement may be limited by general principals of equity whether applied in a court of law or a court of equity and by bankruptcy, insolvency and similar laws affecting creditors' rights and remedies generally.

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF
THE CITY OF ROCKVILLE, MARYLAND

The City hereby represents and warrants to REDI as follows, it being understood that such representations and warranties are being relied upon by REDI as a material inducement to enter into and perform this Agreement. The City has full power and authority to execute and deliver this Agreement. This Agreement has been duly and validly approved by the Mayor and Council of the City, and no other approvals or proceedings by or on behalf of the City are necessary for the City to perform its obligations under this Agreement. This Agreement has been duly and validly executed and delivered by the City and (assuming due authorization, execution and delivery by REDI) will constitute valid and binding obligations of the City, enforceable against the City in accordance with its terms, except as enforcement may be limited by general principals of equity whether applied in a court of law or a court of equity and by bankruptcy, insolvency and similar law affecting creditors' rights and remedies generally.

ARTICLE IV
COVENANTS RELATING TO CONDUCT OF BUSINESS

4.1 Covenants of REDI

During the term of this Agreement, and for so long as the City makes the payments contemplated by Section 1.2 hereof, REDI agrees to use the Funds exclusively to further REDI's efforts to accomplish its goals and mission, including to:

- (a) Support and assist the City by conducting and performing, to the extent deemed appropriate by the parties hereto, the functions previously conducted by the City agency known as the Economic Development Division of the Department of Community Development;
- (b) Seek to establish the City as a leading center for economic development while sustaining an equitable balance between commercial and residential segments of the City;
- (c) Promote the retention and expansion of resident businesses in the City;
- (d) Encourage the formation of new business enterprises in the City and attract new businesses to the City;
- (e) Create, retain and attract jobs within the City;
- (f) Foster education and communication between the City's business community and the general public;
- (g) Assemble, maintain and disseminate information on the City's business community, workforce and economic climate;
- (h) Promote work force development and a positive business climate within the City;
- (i) Provide economic development, marketing and organizational assistance for Town Center redevelopment, and the implementation of the Town Center Master Plan;
- (j) Engage in such other activities within the power and authority of REDI as the Board of Directors of REDI reasonably deems necessary to carry out the goals and mission of REDI, as determined from time to time.

REDI agrees to submit the following to the administrator of this Agreement:

- (a) A Strategic Initiatives and Work Plan submitted annually during the first quarter of the fiscal year. The document will include goals, strategies, and actions for the current fiscal year. The Strategic Initiatives and Work Plan will also designate measures associated with each goal that REDI will use to assess success in completing the organization's strategic initiatives and work plan;
- (b) A written report summarizing the operations and activities of REDI during the previous fiscal year submitted by July 30 of each year. The report will include data for the measures of performance defined in REDI's Strategic Initiatives and Work Plan;
- (c) An annual financial statement submitted by July 30 of each year; and
- (d) A copy of the accountant's review of REDI's books and supporting documentation submitted annually during the first quarter of the fiscal year.

In addition to the foregoing, REDI agrees to:

- (a) Summarize the Strategic Initiatives and Work Plan in a presentation to the Mayor and Council annually during the first quarter of the fiscal year; and
- (b) Grant the City the right to examine REDI's financial records and books at the City's request.

4.2 Covenants of the City

During the term of this Agreement, the City agrees to use its reasonable best efforts to support REDI, including, but not limited to, taking such actions as the sole member of REDI as may be necessary for the efficient operations of REDI, and providing such City resources as may reasonably be required or advisable, in the City's discretion, for REDI to accomplish its goals and missions.

The administrator of this Agreement is:
Arthur Chambers, Director
Department of Community Planning and Development Services
111 Maryland Avenue, Rockville, MD 20850
240-314-8202

The administrator of the Agreement will receive and forward requests for payment to the Department of Finance, participate in budget discussions, and approve and distribute the documents described in Section 4.1 of this Agreement. The administrator, or his designee, will serve as a member of the REDI Board of Directors and shall attend Board of Directors' meetings on behalf of the City.

ARTICLE V
TERMINATION AND AMENDMENT

5.1 Termination

This Agreement may be terminated with sixty days notice:

- (a) By mutual consent of the City and REDI;
- (b) By the City at any time after initial payment and upon written notice to REDI;
- (c) By REDI if the City does not make any payment contemplated by Section 1.2; and
- (d) By either the City or REDI (provided that the terminating party is not then in breach of any representation, warranty, covenant or other agreement contained herein that, individually or in the aggregate, would give the other party the right to terminate this Agreement) if there shall have been a material breach of any of the covenants of agreements set forth in this Agreement on the part of the other party, and such breach shall not have been cured within 30 days following receipt by the breaching party of written notice of such breach from the other party hereto or such breach, by its nature, cannot be cured.

5.2 Amendment

Subject to compliance with applicable law, this Agreement may be amended by the parties hereto, by action taken or authorized, as to the City, by the Mayor and Council, and as to REDI, by its Board of Directors. This Agreement may not be amended, except by an instrument in writing signed on behalf of each of the parties hereto.

ARTICLE VI
GENERAL PROVISIONS

6.1 Expenses

All costs and expenses incurred in connection with this shall be paid by the party incurring such expense.

6.2 Notices

All notices and other communications hereunder shall be in writing and shall be deemed given if delivered personally, telecopied (with confirmation), mailed by registered or certified mail (return receipt requested) or delivered by an express courier (with confirmation) to the parties at the following addresses (or at such other address for a party as shall be specified by like notice):

(a) If to REDI:

Rockville Economic Development, Inc.
95 Monroe Street
Rockville, MD 20850
Attn: Chairperson

(b) If to the City:

City of Rockville
111 Maryland Avenue
Rockville, MD 20850
Attn: Mayor

6.3 Entire Agreement; Governing Law

This constitutes the entire Agreement with respect to the subject matter hereof. This Agreement shall be governed and construed in accordance with the laws of the State of Maryland, without regard to any applicable conflicts of law.

6.4 Enforcement Agreement

The parties hereto agree that irreparable damage would occur in the event that the provisions of this Agreement were not performed in accordance with its specific terms or was otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions thereof in any court of the United States or any state having jurisdiction, this being in addition to any other remedy to which they are entitled at law or in equity.

6.5 Assignment; Limitation of Benefits

Neither this Agreement nor any of the rights, interests or obligation hereunder shall be assigned by any of the parties hereto (whether by operation of law or otherwise) without the prior written consent of the other parties.

IN WITNESS WHEREOF, the parties hereto set their hands and seals the day and year first written above.

ATTEST:

THE MAYOR AND COUNCIL OF ROCKVILLE

Claire F. Funkhouser
City Clerk
City of Rockville

Larry Giammo
Mayor
City of Rockville

ATTEST:

ROCKVILLE ECONOMIC DEVELOPMENT INC

Sally Sternbach
Executive Director
REDI

Albert Lambert
Chairperson
REDI Board of Directors

Budget 2004-5, with Move

Attachment A

Income		
Rockville City Funding	\$386,112	
Interest Income	\$500	
MEDAAF Grant Carryover	\$10,000	
<i>Total Income</i>		<u><u>\$396,612</u></u>
Expense		
Economic Development		
Business Recruitment	\$41,000	
Business Retention	\$7,000	
<i>Total Econ Dev</i>		<u><u>\$48,000</u></u>
Education		<u>\$4,000</u>
Insurance		
Board Insurance	\$2,000	
Property Insurance	\$500	
Workman's Comp.	\$745	
<i>Total Insurance</i>		<u><u>\$3,245</u></u>
Marketing		
Advertising Publicity	\$15,000	
Internet Site	\$2,500	
Membership/Subscription Fees	\$1,871	
Promotional Items	\$5,000	
Sponsorship	\$2,000	
<i>Total Marketing</i>		<u><u>\$26,371</u></u>
Meeting Expense		<u><u>\$6,000</u></u>
Office Expense		
Repair Services	\$500	
Bank Fees	\$200	
Copies	\$1,068	
Miscellaneous	\$500	
AC/Heating Service Contract	\$800	
Office Supplies	\$2,900	
Postage & Shipping	\$977	
Rent	\$73,344	
Communication - Phone	\$3,120	
Communication - Wireless	\$1,200	
<i>Total Office Expense</i>		<u><u>\$84,609</u></u>
Professional Services		
Accounting Service	\$3,500	
Consulting Service	\$0	
Design Service		
Web	\$4,000	
Marketing	\$7,000	
Payroll Service	\$1,200	
<i>Total Prof Services Expense</i>		<u><u>\$15,700</u></u>
Parking, Employee		<u>\$3,240</u>
Salaries & Benefits		
Administrative Assistant	\$33,960	
Marketing Manager	\$43,260	
Executive Director	\$90,100	
Disability Insurance	\$5,000	
Health Dental Insurance	\$14,400	
Retirement	\$6,712	
<i>Total Salaries & Benefits</i>		<u><u>\$193,432</u></u>
Taxes		
Federal Taxes	\$0	
Payroll Taxes	\$13,362	
Other Taxes	\$500	
<i>Total Taxes</i>		<u><u>\$13,862</u></u>
<i>Total Expense</i>		<u><u>\$398,459</u></u>